



# THE INTERIM

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## THE INTERIM

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**THE INTERIM** is a monthly newsletter that reports on the interim activities of legislative committees, including the Legislative Council, the Environmental Quality Council, the Legislative Finance Committee, the Legislative Audit Committee, and interim legislative committees and subcommittees staffed by the Legislative Services Division. Information about the committees, including meeting schedules, agendas, and reports, is found at <http://www.leg.mt.gov>. Follow the "Committees" link or the "Interims" link to the relevant committee. The newsletter is posted on the legislative branch website on the first of each month (follow the "Publications" link).

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## LEGISLATIVE COUNCIL

Council looks at revising legislative rules...The Rules subcommittee of the Legislative Council met on Jan. 28 to work on proposals for revising joint, House, and Senate rules. The council will consider some specific rule changes at its April meeting. The Legislative Council met on January 29.

Council selects dates for caucuses, legislator training...The council has chosen Nov. 19, 20, and 21, 2008, for caucuses and legislator training. It also plans on providing training to all legislators with separate programs for new legislators and returning legislators. The Rules Committee meeting and training for committee presiding officers are planned for Dec. 15. These dates are, of course, subject to change. The council also reviewed several versions of the 2009 session calendar and it will continue to do so this interim.

Delegation of legislative authority...Greg Petesch, director of LSD legal services, discussed the history of and legal issues related to the delegation of legislative authority to executive branch agencies through the administrative rulemaking process. Currently, legal staff and interim committees review all proposed administrative rules. The council concluded that review of existing rules is important in bill drafting and that legislators need more guidance in the delegation of authority in bill drafts. Legislation containing specific guidelines makes administrative rulemaking authority unnecessary. However, legislation cannot always be that specific because of changing technologies or other considerations; it makes more sense to give an agency the authority to adopt rules. Staff will be working on bill drafting guidelines on rulemaking and other informational and training tools on administrative rulemaking, including additions to the legislator handbook.

Media access to legislative proceedings...The Legislative Council had a lively discussion with a panel of media representatives on open caucuses and media access to legislative proceedings. Greg Petesch discussed the legal history and status of open caucuses. Several panelists gave an historical perspective on how access to the Legislature as the people's branch of government was an important consideration for members of the 1972 Constitutional Convention.

The discussion included media access to the floor sessions and committee hearing rooms. Council members expressed their frustrations with logistics, especially in the Senate chamber. The council and media representatives agreed on the importance of preserving existing access, and council members assured those in attendance that there was no desire to restrict access of the media or the public. However, with expanding media pools and forms of communication, the council noted that media access should be balanced with maintaining decorum in the House and Senate chambers and in committee hearing rooms.

Media representatives emphasized the value they place on their access to floor sessions and suggested some possible solutions to alleviate legislators' concerns, including media training and increased access to additional sound ports or media areas in the Senate gallery. Staff will follow up on the proposals for the council's consideration.

TVMT coverage, interim committee guidelines...Stephen Maly, Helena Civic Television, discussed plans to expand television coverage of legislative proceedings through TVMT. Council staff provided a memo on rules and guidelines for interim committees. The council has sent a letter to presiding and vice presiding officers of interim committees asking for their help in developing guidelines for interim committees and planning for the next interim. Finally, the council postponed until April consideration of legislator compensation and reimbursement.

Voting system demonstration...Plans are underway to have the new House and Senate voting systems and displays installed this summer for the 2009 legislative session. The evaluation committee has invited a vendor to provide a demonstration in March, and legislators are invited to attend the demonstration of the proposed voting system technologies. Legislators may not ask the vendor questions, but they may provide comments and suggestions to the evaluation committee and will have ample opportunity to provide input on the proposed Web interface to the new systems. Legislators interested in attending the demonstration should contact Susan Fox at [sfox@mt.gov](mailto:sfox@mt.gov) or (406) 444-3066 for the specific date, place, and times.

Council meets in April...The Legislative Council will meet April 1 in Room 102 of the Capitol. Agenda items include legislator training and caucuses; bill request deadlines; rules; revisiting the fiscal note study from last interim; annual and even-year sessions; and establishing budget initiatives for the 2009 session.

For more information, visit the Legislative Council's webpage or contact Susan Byorth Fox at [sfox@mt.gov](mailto:sfox@mt.gov) or (406) 444-3066.

## NCSL AND CSG MEETINGS

Applying for NCSL and CSG spring and summer meetings...A limited amount of money was appropriated for legislators to attend meetings sponsored by the National Conference of State Legislatures or the Council of State Governments. Legislators looking for financial assistance to attend an NCSL or CSG meeting must contact their legislative leader-- Sens. Mike Cooney or Corey Stapleton or Reps. Scott Sales or John Parker--for approval (preferably in written form). If approval is granted, then submit a legislator reimbursement form with appropriate receipts to the Legislative Services Division c/o Jennifer Simmons. For forms or more information, contact Susan Byorth Fox at [sfox@mt.gov](mailto:sfox@mt.gov) or (406) 444-3064.

## ENVIRONMENTAL QUALITY COUNCIL

Climate change survey draws good response...Armed with survey results and hundreds of public comments, the Environmental Quality Council continues to examine climate change.

As part of its interim work, the EQC is reviewing the 54 recommendations included in the "Montana Climate Change Action Plan: Final Report of the Governor's Climate Change Advisory Committee." The final report was released in November 2007.

At a January meeting, the EQC agreed to invite the public to rank and comment on the 54 recommendations aimed at reducing greenhouse gas emissions in Montana. The recommendations are broken down into five categories: Residential, Commercial, Institutional, and Industrial; Energy Supply; Transportation and Land Use; Agriculture, Forestry, and Waste Management; and Cross-Cutting Issues.

In order to better understand how the public feels about the recommendations included in that report, the EQC conducted a survey. Throughout the month of February, the public was invited to participate in the survey--and participate it did. Within the first 24 hours the survey was available online, 86 surveys were completed. Within the first week, close to 350 surveys were submitted.

Survey results to be discussed at March meeting...EQC members also participated in the survey themselves, and an analysis of the results will include an examination of both responses from the public and responses from EQC members. That analysis will be presented to the EQC at a meeting March 10-11 in Helena.

The Center for Climate Strategies, a nonprofit organization that worked with the Climate Change Advisory Committee, as well as a representative from the governor's office, also will be invited to the EQC meeting.

Conservation easements...At its March meeting, the EQC will continue to work on HJR 57, a study of conservation easements on trust lands. A summary, that could serve as a type of brochure for the public, with basic information about conservation easements, will be presented to the council.

The EQC meets March 10-11 in Room 102 of the Capitol. For more information, contact Joe Kolman at [jkolman@mt.gov](mailto:jkolman@mt.gov) or (406) 444-9280 or Sonja Nowakowski at [snowakowski@mt.gov](mailto:snowakowski@mt.gov) or (406) 444-3078. The agenda and other materials are posted on the EQC webpage.

## WATER POLICY COMMITTEE

Water marketing, other topics slated for March meeting...Though it often seems to flow freely, water is a property right, and therefore, a commodity.

Property rights are often described as a bundle of sticks associated with a parcel of land. However, each stick

has value independent of the bundle. While there are differences in how different rights may be marketed, a water right is one of those sticks.

The 2007 Legislature asked the Water Policy Interim Committee to analyze water marketing and water reallocation options available in Montana, including leasing programs and the possibility of establishing a water bank.

Speakers scheduled for the committee's March 12-13 meeting include representatives of agriculture and conservation as well as a free market advocate.

Water marketing is not a new discussion in Montana. In 1984, the Legislature's Select Committee on Water Marketing published a voluminous report and several suggestions for future legislation.

"These recommendations concern a strategy for a water policy for Montana in an interstate setting," wrote then-Sen. Jean Turnage, who chaired the panel. "This agenda is too important and too complex to be addressed by one interim committee or one legislative session. These issues significantly affect the future of Montana. The deliberations around them must be ongoing."

Although those words were written nearly a quarter century ago, water markets are still in their infancy, according to Water Strategist, a newsletter that analyzes water policy, marketing, finance, legislation, and litigation in 17 western states.

"Water assets are not traded westwide; no indicator can measure overall activity in water markets," the newsletter said in its April 2006 issue. "The economic value of water depends upon the reliability of the underlying water right, quantity, quality, uses and the location and availability of competing sources of supply."

However, in Montana and other states, competing demands for water are driving water marketing discussions. The 2007 Legislature passed House Bill 831 regulating groundwater appropriations in closed basins. Mitigation plans required under that statute may contain some aspect of water marketing.

The March meeting will include a presentation of the growing communities doctrine, which gives special consideration to municipal water suppliers within the prior appropriation system for administering water rights.

The committee also will continue discussing possible legislation on several topics.

Meeting materials on the Internet...The meeting is March 12-13 in the state Capitol. An agenda, more meeting information, and background materials are available on the committee's webpage. For more information, contact Joe Kolman, committee staff, at (406) 444-9280 or jkolman@mt.gov

Finance committee meets in March...The Legislative Finance Committee will meet Thursday and Friday, March 6 and 7, in Room 102 of the Capitol beginning at 1 p.m. on Thursday and at 8 a.m. on Friday. The agenda and meeting reports are available on the Legislative Fiscal Division website at <http://www.leg.mt.gov/css/fiscal/lfc.asp>. For more information about the committee, contact Clayton Schenck at [cschenck@mt.gov](mailto:cschenck@mt.gov) or (406) 444-2986.

The following topics have been scheduled:

- Information technology management update
- State leasing policy and Corrections/DPHHS building plan issues
- Update on Montana Historical Society site selection
- Proposed statute change regarding authority to approve state land purchases
- Real-ID current status and May deadline
- Review of select programs including the Department of Revenue \$14 million block funding and the State Hospital
- Study of budget and appropriation process
- Long-range planning study
- State Fund study
- Study of LFD products and services
- Report on Revenue and Transportation Interim Committee project of budget growth (graying of Montana)
- Status reports on LFC interim subcommittees and studies
- Performance measurement discussion

## ENERGY AND TELECOMMUNICATIONS COMMITTEE

The Energy and Telecommunications Interim Committee approved draft legislation that eliminates the pending sunset of the electric Universal Systems Benefits program and agreed that a two-day meeting in the spring is needed to close in on the topic of carbon sequestration.

Committee may recommend carbon sequestration legislation...The ETIC met Jan. 24 in Helena and started the day with an overview of the Interstate Oil and Gas Compact Commission's carbon sequestration model rules and regulations. Tom Richmond, administrator of the Montana Board of Oil and Gas Conservation, and Bonnie Lovelace, bureau chief for the Department of Environmental Quality Water Protection Bureau, discussed aspects of existing Montana law and how they might be reviewed in developing carbon sequestration legislation. Following the presentation, ETIC members asked that the committee meet May 1 and 2 to continue discussing recommendations on the subject.

## LEGISLATIVE FINANCE COMMITTEE

Committee approves draft USB legislation...In 1997 SB 390 established the USB charge for all electric distribution utilities at 2.4 percent of 1995 electric utility revenues to begin Jan. 1, 1999. The electric USB currently in law expires in December 2009. The committee approved draft legislation that removes the sunset and adds a provision requiring the ETIC to review the USB program each interim.

Wind power integration on agenda...During the January meeting, a panel offered an overview of wind power integration in Montana and wind power topics specific to individual utilities. Seven speakers gave their perspectives on the costs and benefits of wind power development. Several PowerPoint presentations covering related topics ranging from generation interconnection to the importance of regulating electrical reserves were shown to the committee. These PowerPoint presentations are available on the ETIC webpage.

State agency reports...Montana's Public Service Commission and the Department of Commerce Energy Infrastructure and Promotions Division also updated the committee on recent activities. The EIPD provided information on its work related to transmission, geothermal development, coal-to-liquids projects, and wind generation. The PSC is developing rules to implement portions of HB 25, the "Electric Utility Industry Generation Reintegration Act" approved by the 2007 Legislature. The proposed rules are available for review and a public hearing will be held on March 5 at the PSC offices.

May meeting scheduled...The ETIC meets again May 1 and 2 in Helena. Please note that these dates are different than previously posted. Information on the ETIC and its studies can be found on the committee's webpage. For more information contact Sonja Nowakowski at snowakowski@mt.gov or (406) 444-3078.

## LEGISLATIVE AUDIT COMMITTEE

The Legislative Audit Committee met Jan. 23 in Helena. The complete audit reports are available at <http://leg.mt.gov/css/audit/default.asp>. The following reports were issued:

### Financial Compliance Audits

Statewide Audit (07-01)...This audit report documents the results of the Legislative Audit Division's (LAD) annual financial audit of the state of Montana's Basic Financial Statements and the Schedule of Expenditures of Federal Awards of the state of Montana for the fiscal year ended June 30, 2007. The basic financial statements were prepared by the Administrative Financial Services Division of the Department of Administration. The Schedule of Expenditures of Federal Awards was prepared by the Governor's Office of Budget and Program Planning. The

audit was performed to express an opinion on the state's basic financial statements and the related opinion on the Schedule of Expenditures of Federal Awards.

Auditing standards require the auditor to communicate control deficiencies over financial reporting identified based on an audit of basic financial statements and considered to be significant or material. A significant deficiency affects management's ability to accurately process transactions. A material weakness is one or more significant deficiencies that adversely affect management's ability to fairly present its financial statements. The table below outlines the significant deficiencies and material weakness identified during this audit.

Summary of Control Deficiencies			
Subject	Significant Deficiency	Material Weakness	Page
Improperly Recorded Infrastructure Asset Balances and Activity	Yes	Yes	A-1
Untimely Cash Reconciliations	Yes	No	A-2

Federal Single Audit (07-02)...This audit report documents the results of the Single Audit of the state of Montana for the two fiscal years ended June 30, 2007. The report contains the unqualified independent auditor's reports on the state of Montana's basic financial statements for the fiscal years ended June 30, 2007, and June 30, 2006, and the related schedules of expenditures of federal awards. The report also contains reports on the state of Montana's internal controls and compliance with federal and state laws and regulations, a schedule of findings and questioned costs, a corrective action plan, and a summary schedule of prior audit findings.

Board of Investments (07-04)...This audit report documents the results of the annual audit of the Board of Investments in compliance with Article VIII, section 13, of the Montana Constitution, and 17-6-321, MCA. The objectives of the financial audit included determining whether the board's financial statements presented fairly its financial position and results of operations at and for the period ending June 30, 2007, and the board's compliance with laws and regulations that have a direct and material impact on the financial statements. This report does not contain any recommendations to the board.

The board chose to present consolidated investment pool financial statements for fiscal years 2006-07 rather than the separate pool statements as presented in previous years. This change in presentation provides the financial user a comprehensive view of all pooled investments. This report contains unqualified Independent Auditor's Reports for each of the following three sets of financial statements of the Board of Investments: Consolidated Investment Pool (consisting of Retirement Funds Bond Pool, Trust Funds Bond Pool, Short Term Investment Pool, Montana Domestic Equity Pool, Montana International Equity Pool, Montana

Private Equity Pool and Montana Real Estate Investment Pool), All Other Funds, and the Enterprise Fund.

Public Employees' Retirement Board (07-08)...This audit report documents the results of the annual financial audit of the Public Employees' Retirement Board, for the fiscal year ending June 30, 2007. The objective of the financial audit was to determine if the Pension Trust Funds' Statements of Fiduciary Net Asset as of June 30, 2007, and the Statement of Changes in Fiduciary Net Assets for the year then ended are fairly presented. This objective included determining the system's compliance with state laws and regulations that are direct and material to the financial statements and the implementation status of two prior audit recommendations. An unqualified opinion was issued on the system's financial statements for the fiscal year ended June 30, 2007. This audit report does not include any recommendations to the board.

The previous financial-compliance report for the two fiscal years ending June 30, 2006, contained recommendations related to the actuarial soundness of three defined benefit retirement systems and reconciliation controls over external investments. At June 30, 2007, an actuarial valuation of the systems reported the amortization periods for all eight defined benefit systems administered by the board were less than the 30-year maximum amortization period.

The change in the funding status of the three systems that were not actuarially sound at June 30, 2006, came about through a combination of changes enacted by the 2007 Legislature and higher than expected investment returns in fiscal year 2007.

University of Montana (07-10)...This audit report documents the results of the annual financial audit of the University of Montana's consolidated financial statements for the fiscal years ended June 30, 2007. The objective of the audit was to determine if the university's financial statements present fairly its financial position, changes in financial position, and cash flows as of June 30, 2007, and for the fiscal year then end. This objective included determining the university's compliance with laws and regulations having a direct and material impact on the financial statements. An unqualified opinion was issued on the university's consolidated financial statements, which means the reader can rely on the presented information. This report does not contain any recommendations to the university.

Montana State University (07-11)...This audit report documents the results of the annual financial audit of Montana State University's consolidated financial statements for the fiscal year ended June 30, 2007. The university requested this audit to provide timely audited financial statements to interested parties. The objective of the audit was to determine if the university's financial statements present fairly its financial position, changes in financial position, and its cash flows as of, and for the fiscal year

ended, June 30, 2007. This objective included determining the university's compliance with laws and regulations having a direct and material impact on the financial statements. An unqualified opinion was issued on the university's consolidated financial statements, which means the reader can rely on the presented information. This report does not contain any recommendations to the university.

Montana Guaranteed Student Loan Program (07-06)...This audit report documents the results of the fiscal year 2006-07 financial audit of the Office of the Commissioner of Higher Education's Montana Guaranteed Student Loan Program (MGSLP) Federal Special Revenue Fund. An unqualified opinion was issued on the MGSLP financial statements, which means the reader can rely on the presented information. The report contains no recommendations to MGSLP.

Office of Public Instruction (07-19)...This financial-compliance audit report contains the results of the audit of the Office of Public Instruction for the two fiscal years ended June 30, 2007. An unqualified opinion was issued on the financial schedules of OPI for the two fiscal years ended June 30, 2007. The reader may rely on the financial information presented in the financial schedules and the supporting data on the state's accounting system.

Montana State Fund (07-05)...This financial audit report documents the results of the audit of the Montana State Fund New Fund (MSF) and the Old Fund for the fiscal year ended June 30, 2007. Unqualified opinions were issued on the statements for MSF and the State of Montana--Old Fund contained in this audit report. This report contains one recommendation to MSF related to improving internal controls for financial reporting.

### Information System Audits

State Web Server Security Audit (08DP-02)...The Department of Administration is responsible for state network enterprise policy-making, including state web servers. The state's web servers are vital in providing access to state-provided programs and services as well as non-public agency applications and data. Without proper controls, unauthorized access to any data for any services offered through state web servers could be allowed.

The Legislative Audit Division, Information Systems audit team, performed an audit to evaluate state controls in place to mitigate unauthorized web server activity. The report contains two multi-part recommendations for the Department of Administration to define state web server responsibilities in policy: notify agencies of those responsibilities, comply with state enterprise policy to check state web servers before the servers become available to the public, and to scan for unauthorized web servers.

Statewide Accounting, Budgeting, and Human Resource System, SABHRS (08DP-03)...The Statewide Accounting, Budgeting and Human Resource System (SABHRS) is an enterprise computer application implemented by the state of Montana to assist state agencies and the Montana University System to record the disposition, use, and receipt of public money and property in accordance with state law (section 17-1-102, MCA). SABHRS also assists in the administration of human resource (HR) information, including the generation of a bi-weekly payroll. SABHRS Services Bureau (SSB) at the Department of Administration (DOA) is responsible for the general maintenance, operation, and security of SABHRS.

Information Systems auditors addressed general security controls in place to ensure the security of business processes. The report focuses on general controls; specifically, identifying areas where DOA can improve controls over user access to the SABHRS application. Two recommendations for development and implementation of review procedures to ensure conflicting access roles are segregated and SSB programmers do not have access to modify programming code and database tables in the production environment.

#### **Performance Audit**

State Grain Laboratory Operations and Future Viability, Department of Agriculture (07P-10)...The Legislative Audit Division conducted a performance audit of the State Grain Laboratory (SGL) Operations. The recommendations address the need for an additional or alternative funding source if SGL is to be viable in the future. To address improvements in SGL's efficiency and effectiveness, the audit recommends the Department of Agriculture implement comprehensive management controls at SGL. The audit also recommended the department increase enforcement of section 80-4-711, MCA. By obtaining a stable funding source, implementing management controls, and enforcing statutory provisions, improvements could be made in SGL's operations.

A summary of the findings is available on the Legislative Audit Division's webpage at [www.leg.mt.gov](http://www.leg.mt.gov). In the left hand column, click on "Audit" and in the drop-down box click on "Audit Reports". The summary is listed under the January 2008 audits (07P-10).

#### **Contract Audit**

Dawson Community College (07C-09)...This financial-compliance audit report contains the results of the audit of Dawson Community College for the fiscal year ended June 30, 2007. The audit was conducted by Denning, Downey & Associates, under contract between the firm and the Legislative Audit Division. The report contains an unqualified opinion on the financial statements on the financial statements contained in the report. This means the reader may rely on the financial information presented.

## **CHILDREN, FAMILIES, HEALTH, AND HUMAN SERVICES COMMITTEE**

Legislative audit identifies gaps in EMS services...Emergency medical services (EMS) providers in Montana responded to more than 72,000 calls in 2006, with the average time required to transport a patient from the scene to the hospital door ranging from about nine minutes for urban EMS providers to more than 28 minutes for rural responders. More than half of the calls resulted from medical emergencies, while only 16% stemmed from motor vehicle crashes.

Those were among the highlights of a presentation by the Legislative Audit Division, which is in the midst of a performance audit of EMS services. The audit dovetails with the committee's SJR 5 study of the challenges facing Montana's EMS system.

At the January meeting of the Children, Families, Health, Human Services Committee, Misty Wallace of the Audit Division gave committee members a thorough overview of what the audit has found to date.

She noted that while Montana has more than 4,600 licensed emergency medical technicians, only 57 percent are estimated to be actually practicing EMS care at the time. Others are maintaining their licenses, but are either not currently working or volunteering or are not available during peak EMS traffic hours. The audit information also showed that around-the-clock advanced care is available primarily in Montana's more urban areas. Ninety-five percent of Montana's urban population is within 30 miles of an Advanced Life Support unit that operates 24 hours a day, seven days a week, and 93 percent of the urban population is within 10 miles of such an EMS unit. However, just 55 percent of the state's rural residents have a similar unit within 30 miles of their home, while only 27 percent have one within 10 miles.

John Ungaretti of Montana Healthcare Billing, a company that handles billing for a number of both paid and volunteer EMS units, described the difficulties that EMS providers face in receiving payment for services, particularly for services to people insured through government programs. Medicare and Medicaid reimburse only a certain percentage of the charges, while the state's Children's Health Insurance Program, or CHIP, doesn't cover ambulance costs at all.

Nels Sanddal, who heads up the Critical Illness and Trauma Foundation in Bozeman, told the committee that Montana's EMS system is based "largely on good will," operated by volunteers who are committed to serving their communities. He predicted, however, that without significant changes, volunteer EMS systems will be gone in 10 years because of the changing demographics of rural Montana. He suggested that the state should support the "costs of readiness," which include the equipment that local providers must purchase and the costs of keeping volunteers trained. Many states have a grant program for local EMS agencies, he noted, as well as tax incentives, retirement programs, and formal recruitment and retention efforts for volunteers.

SJR 15 subcommittee continues health care system review...The subcommittee appointed to seek resolution of conflict-of-interest concerns that hospitals have with health care providers who have investments in separate, perhaps competing facilities heard from stakeholders at a Jan. 24 meeting and reviewed a bill draft at a Feb. 11 meeting. At both meetings, physicians and other health care providers expressed their fears that hospitals could freeze them out of their practices by economically discriminating against them if they had dual work places, particularly if they had an economic interest in such for-profit facilities as ambulatory surgery centers or imaging centers. Nonprofit community hospital administrators noted that conflicts of interest can impact revenues by sending healthier and better insured patients to the for-profit facilities and sending patients needing more care to be treated at a hospital.

The subcommittee--made up of Sen. Dan Weinberg and Rep. Ernie Dutton--is reviewing a bill draft (LC0038) to resolve both the conflict-of-interest and the economic discrimination concerns.

The subcommittee will meet again on March 17 to discuss the proposed bill draft and to discuss a related study proposal to determine whether to continue a moratorium on specialty hospitals, allow the specialty hospitals but with more restrictions on their licensing, or ban specialty hospitals.

Rep. Edith Clark, presiding officer of the Children, Families, Health, and Human Services Committee, has asked that the subcommittee provide recommendations to the full committee on March 18.

Also on March 18, the full committee will discuss whether to define in state law the community benefits that nonprofit community hospitals provide, partially in exchange for the income and property tax exemptions they receive. New Internal Revenue Service regulations require more definitive listing of community benefits under IRS Form 990H. Most Montana hospitals use guidelines from the Catholic Hospital Association and VHA Inc. that spell out acceptable offsets, such as uncompensated care, including the difference between Medicaid reimbursements and hospital costs.

The full committee also will consider how to proceed with making hospital and insurance pricing more readily available and understandable to the public and with implementing a statewide electronic medical record system. Other prospective SJR 15 topics include a discussion of end-of-life alternative care, such as hospice.

For more information, visit the SJR 15 area of the committee's website, under Assigned Studies, or contact SJR 15 staffer Pat Murdo at (406) 444-3594 or pmurdo@mt.gov.

Mental health study contract awarded...The committee awarded a contract for a mental health study to DMA Health Strategies, a Massachusetts-based firm that

has worked with a number of states on their mental health systems.

DMA was one of seven companies that submitted

proposals for conducting a three-pronged study. The tasks, and DMA's plans for completing them, are:

- *Conduct a needs assessment and resource mapping of Montana's publicly funded mental health services to identify any gaps in services or in the provider community.* DMA will collect and analyze data compiled by various state agencies to determine who is being served in the publicly funded mental health system and also will contact stakeholders through interviews, focus groups, and surveys to identify services that may be needed but currently are not provided.
- *Inventory the federal, state, and local funds currently being spent on publicly funded mental health services and identify additional resources that may be available.* As part of this task, DMA will evaluate the rules associated with each funding source and the legislative, regulatory, and other challenges to obtaining or re-directing the funds.
- *Identify ways in which Montana's existing publicly funded mental health services could be better integrated or coordinated.* DMA will use the results of its interviews and other work to propose ways to better integrate existing services. It also will review systems in other states to identify elements that may be used for a model system in Montana.

DMA officials will attend the committee's March 17-18 meeting to discuss the work plan for the study in more detail.

Drafting of corrective legislation requested....The committee requested the drafting of three bills to correct inconsistencies in existing law:

- LC 41 would remove an incorrect reference to prescription drug laws in 53-32-205, MCA.
- LC 42 would repeal the termination date established in previous sessions for the so-called "hospital bed tax," or the fee assessed for each day a person is in the hospital. The 2007 Legislature approved the extension of the fee beyond its June 30, 2009, sunset date by passing SB 525, but amendments added to the bill did not properly remove the termination date set in prior session law.
- LC 43 would revise 20-5-503, MCA, to clarify that the affidavit that allows a caretaker relative to enroll a child in school can be valid through the end of the school year.

The draft legislation is available on the committee's webpage and will be subject to public comment at the committee's March 17-18 meeting. The committee may approve the bill drafts or request further revisions, based on public comment.

Montana State Hospital concerns...Joyce DeCunzo, administrator of the Department of Public Health and Human Services Addictive and Mental Disorders Division, told the committee that the number of patients at the Montana State Hospital continues to exceed the number for which it is licensed. The facility is licensed for 189 patients, but is over that amount by approximately 20 to 30 people on any given day.

DeCunzo said the agency is looking at what it might be able to do to develop more intensive services at the community level as a way to reduce the population at the State Hospital.

Department of Public Health and Human Services updates...DPHHS Director Joan Miles and Deputy Director John Chappuis brought committee members up to speed on new developments within the department, including:

- Increases in enrollment for the Children's Health Insurance Program, or CHIP. The 2007 Legislature increased the income eligibility level for the program from 150 percent to 175 percent of the federal poverty level. That increase, along with additional outreach efforts, had brought 6,219 additional children into the program by mid-January.
- New staff members for the Child and Family Services Division. The 2007 Legislature approved hiring 15 new caseworkers for the division. Ten of those positions have been filled, while the remaining 5 will be filled in the next fiscal year.
- The issuance of a request for proposals for a new community health center, to provide health care primarily to uninsured and underinsured Montanans. The proposals were due at the end of February, and a contract should be awarded by May 1.
- Decreases in the number of Montanans served by the Medicaid program. About 78,000 people are served by the program right now, compared with more than 82,000 in January 2006. However, Chappuis cautioned that the numbers could increase if the state's economy takes a downturn.

Stay tuned....The committee will meet March 17-18 in Room 137 of the Capitol, beginning at 8 a.m. on March 17 with a meeting of the SJR 15 subcommittee. The agenda and other materials will be posted on the committee's webpage as they become available. Please contact Sue O'Connell at (406) 444-3597 or soconnell@mt.gov for more information about committee activities.

## ECONOMIC AFFAIRS COMMITTEE

The Economic Affairs Interim Committee met on Feb. 7 in Great Falls as part of its continuing outreach to local communities. Meeting topics included value-added

agriculture and workers' compensation. The meeting showcased changes on the MSU Great Falls campus, as the EAIC was the first group to meet in the newly renovated Heritage Hall.

SJR 13 study meets the Golden Triangle...Panelists on value added agriculture echoed concerns raised earlier in Miles City, but with special emphasis on grains in the Golden Triangle. The panel demonstrated that processing Montana's agricultural products in-state can bring economic gain, whether the operation is small, medium, or large. David Tweet of Anheuser-Busch came equipped with numbers on the large side, saying that in 2006 nearly 70 percent of barley grown in Montana was used for malt. Anheuser-Busch has contracted with well over a thousand barley growers. These contracts have an impact nationally because Montana-grown barley is used in one of every five bottles of Anheuser-Busch beer sold in the U.S. Committee members were presented with a sampling of this quality crop (although it had not, as yet, added value through fermentation). Mark Black, of International Malting in Great Falls, represented medium-sized operators and explained their relationship with not only Anheuser-Busch, but also with other national and international brewers, distillers, and food companies.

David Oien from Timeless Seeds, a smaller grower and marketer of flax, lentil, and other seeds, discussed his firm's growth over the past 20 years and warned that Montana plains communities need help to maintain or revive past vitality.

Randy Gilbertson of Pasta Montana said that other states, like North Dakota and Minnesota, have nearby suppliers that provide food processors with cardboard boxes, pallets, or other supplies necessary for getting their products to market. Stating that "industry breeds industry", Gilbertson recommended more resource support for farm-to-market production. Sam Schmidt of Montana Milling said that the supply of organic grain is not keeping up with demand, noting that organic grains make up less than 10 percent of Montana's farm acreage. He suggested that more information is needed to help interested farmers make the transition to growing organic grains.

The presenters recommended that programs at Montana's colleges of technology could be developed to train people to mill machines or do production or maintenance engineering. They also discussed concerns about shipping costs out of Montana and the lack of small-unit shipping options.

At the next meeting the committee will hear more about Montana's Growth through Agriculture grants, options for marketing, and work force training options. Reps. Bill Thomas and Mike Milburn said they would work with the presenters at the Great Falls meeting to follow up on their suggestions for possible legislation.

Workers' compensation...The afternoon presentation on workers' compensation demonstrated the continued interest in this topic among several legislative committees. The EAIC has two liaisons to the Montana State Fund appointed by Rep. Scott Mendenhall. Reps. Mike Milburn



and Bill Thomas are attending State Fund meetings and reporting back to the full committee.

Jerry Keck, division administrator with the Employment Relations Division at the Department of Labor, presented data showing that the injury rate in Montana is 57 percent higher than the national average, and return to work time is 67 percent longer. Since state agencies make up nearly one-third of State Fund's clients, committee members asked how state agencies were faring on these two areas. Connie Welsh, who oversees state workers' comp claims in the Department of Administration, said that the numbers in state government were, unfortunately, no better than small operators around the state.

Welsh unveiled a new initiative at the state level by introducing Lance Zanto who has been brought in to focus on safety and ensuring employees are able to return to work and get back to healthy and productive lives. Zanto said the effort is to let employees know they are needed back at work. He said occupational health studies show that being at home and idle can be counterproductive to healing. He told the committee that by going back to work, even in a limited capacity, people are able to keep the personal pride of daily achievement, have social interactions, and maintain the economic situation for their family, all of which are important to the mental component of recovering from an injury.

Committee members wanted to know what this meant in "real terms," and were given the answer through the recent tragic bus accident involving many Department of Corrections personnel. Zanto, acting as a case manager, secured positions in other state agencies for employees that were well enough to return to work, thus treating state government as one entity. "Having someone at home any longer than is necessary because we don't make an effort is a lose-lose situation. Getting people back in the game is good for the employee, good for the employer, and good for the public trust," Zanto said.

Lanny Hubbard, president and CEO of the Montana State Fund, talked about State Fund operations. He said the organizational structure and operations of MSF are akin to a private insurance carrier in order to meet businesses' needs. Hubbard explained how rates are set and how rates set by MSF differ in certain areas from private insurance companies. He also gave an update on the Old Fund. Looking into the future, Hubbard said the greatest area of concern is the volatility of court decisions and the impact this can have on claim benefits.

**HJR 48 subcommittee...**At its Feb. 6 meeting, the subcommittee studying health insurance reforms to expand coverage of the uninsured in Montana heard from an attorney involved with the Massachusetts health care reforms and a health care policy analyst for the Heritage Foundation.

Attorney Rick Szczebak, who helped develop a Section 125 plan that authorizes pre-tax deductions for contributions toward employee health insurance under the Massachusetts Commonwealth Connector, reviewed the federal requirements for a Section 125 plan. He said that all participants in the plan must be employees, which means

that the self-employed or an owner of an S corporation are not allowed to participate.

Ed Haislmaier, of the Heritage Foundation, discussed what states can do to implement health insurance reforms. He noted that a perfect model does not exist. For states interested in implementing the equivalent of Section 125 options, the choices range from setting up a bureaucracy to handle the regulatory burden to using electronic systems and payroll withholding to provide insurance through the Internet. He said one benefit of the Massachusetts Insurance Connector is that it allows people who go in and out of jobs to buy and retain insurance coverage regardless of whether they are employed or between jobs.

State Auditor John Morrison discussed the children's health initiative that has been submitted to the secretary of state. The Healthy Montana Kids Plan Act, which has not yet been authorized for signature gathering to be placed on the ballot, would seek to enroll as many as 30,000 Montana children whose parents earn under 250 percent of the federal poverty level. Coverage would be through Medicaid, the Children's Health Insurance Program, or payment toward their parent's health insurance plan.

**Expanding public health programs...**The HJR 48 subcommittee also reviewed options to expand public health programs like Medicaid, Insure Montana, and the Children's Health Insurance Program. John Chappuis, deputy director of the Department of Public Health and Human Services, reviewed waivers that Montana has used under Medicaid to expand coverage of eligible populations, especially to reduce the waiting lists for existing programs. He suggested that eligibility could be expanded by increasing the percentage above the poverty level. For example, in the 2007 session, the Legislature expanded eligibility for CHIP to 175 percent of the federal poverty level. Most states are at 200 percent of the federal poverty level. Another option would be to maintain seriously emotionally disturbed children on Medicaid until they reach the age of 21. Currently coverage ends at age 18.

The HJR 48 subcommittee has not yet decided whether to move the study to the full Economic Affairs Committee or have one more meeting to consider options to decrease the number of uninsured Montanans. The next meeting of the Economic Affairs Committee is in May. More specifics will be available in the April issue of the interim newsletter.

For more information about the Economic Affairs Committee contact Andrew Geiger, committee staff, at (406) 444-5367 or [angeiger@mt.gov](mailto:angeiger@mt.gov).

## EDUCATION AND LOCAL GOVERNMENT

Two subcommittees (K-12 and PEPB subcommittees) of the Education and Local Government Interim Committee will meet on Thursday, March 13, and the

full committee will meet on March 14.

K-12 Subcommittee...The K-12 Subcommittee meets Thursday, March 13. Following a brief overview of the Feb. 5 court filing by the Montana Quality Education Coalition, the subcommittee will review funding adjustments made in neighboring states for their small, remote, or shrinking school districts. The subcommittee will consider the financial impact if these adjustments were implemented in Montana. Staff of the Revenue and Transportation Committee will report on that committee's SJR 31 study of taxation and school funding. The Department of Administration will report on the statewide school facilities inventory that is now underway. Finally, the subcommittee will examine the Indian education achievement gap.

Education and Local Government Interim Committee...The full ELG Committee will meet Friday, March 14 at 8:30 a.m. Following subcommittee reports, other agenda items include:

- court filing by the Montana Quality Education Coalition;
- antiquated statutes related to local governments;
- administrative efficiencies at the school district level (Montana and other states);
- funding adjustments for small, remote, or shrinking schools undertaken by neighboring states;
- taxation and school funding;
- distance learning;
- scholarship plans;

As always, there will be opportunity of public comment during the meetings. For more information, contact Casey Barrs, ELG Committee staff, at (406) 444-3957 or cbarrs@mt.gov.

## STATE ADMINISTRATION AND VETERANS' AFFAIRS COMMITTEE

February meeting...The State Administration and Veterans' Affairs Interim Committee met on Feb. 22 to consider topics that have been on the committee's agenda this interim: election laws, including mail ballot elections and the counties' resource needs for conducting elections; Montana's public employee retirement systems; Montana military personnel, particularly veterans who have served or are serving in Afghanistan or Iraq; administrative rules; and committee administration and budgeting for the next interim.

Coverage of the meeting will appear in the April issue of the interim newsletter.

Next meeting scheduled for late April...The committee is scheduled to meet next on Monday and Tuesday, April 28 and 29. Most of the meeting will be devoted to considering changes to the state's public employee retirement systems that may be proposed by stakeholders in the systems.

The committee requests stakeholders to submit retirement-related proposals by early April (or sooner if possible) on the form titled "Proposal for Retirement Plan Legislation" and available on the SAVA web page, under the "Other Committee Activities" heading. The Public Employees' Retirement Board and the Teachers' Retirement Board will each present its proposed changes to the retirement systems at the committee's June 30 meeting.

For more information contact Dave Bohyer, committee staff, at dbohyer@mt.gov or (406) 444-3064, or Rep. Franke Wilmer, presiding officer, at (406) 599-3619.

## REVENUE AND TRANSPORTATION COMMITTEE

Study subcommittees meet for first time...Last December the Revenue and Transportation Interim Committee created the SJR 31 subcommittee and the HB 488 subcommittee. The subcommittees met for the first time on Feb. 7. The full committee met the afternoon of Feb. 7 and Feb. 8.

SJR 31 study subcommittee...SJR 31 is a study of the future viability of the use of property taxes to fund K-12 education. The study was requested because of concerns about changing demographic patterns in Montana, particularly the aging population and school-aged children, and disparate school funding property tax burdens faced by taxpayers across the state.

At its February meeting, the SJR 31 subcommittee reviewed several background reports. Denise Ulberg gave a PowerPoint presentation on the basics of school funding. In fiscal year 2008, school district budgets statewide amounted to a little over \$1.3 billion. General fund budgets accounted for about \$911million of that total and retirement \$119 million. Ulberg discussed the mechanics of school district general fund budgeting. She noted that school enrollment has been declining steadily since the mid 1990s. She also discussed the school retirement funds, debt service funds, and transportation funds and the use of nonlevy revenue (e.g., oil and gas production taxes, coal gross proceeds taxes, and state reimbursements tied to tax law changes).

Montana State University Economists Myles Watts and Doug Young of Montana discussed demographic and socioeconomic trends in Montana. Between 1940 and 2000, people 65 years old and older increased from 6 percent of the state's population to 13 percent, while those 17 years old and younger fell from 31 percent to 26 percent. By 2030, the older group will account for 26 percent of the state's population and the younger group for 20 percent. These changes may have a significant effect on school funding, the demand for health care and other services, and state and local revenue. Watts and Young also discussed income and expenditure patterns by age groups. The PowerPoint presentation is available on the RTIC webpage under the SJR 31 subcommittee.

Dan Bucks, director of the Department of Revenue,

discussed the prospects of a sales tax given the trend toward a service economy. Larson Silbaugh, DOR, described the capabilities of the department's sales tax model.

HB 488 subcommittee...The Department of Revenue will be finishing up this year the reappraisal of agricultural land, residential and commercial land and improvements, and forest land. The new values will go into effect in 2009. Under current law, the department is required to revalue these types of property every six years. Because the reappraised value of residential property, and to a lesser extent commercial property, increased significantly during the last two reappraisal cycles, the Legislature phased in the increase in values, reduced property tax rates, and provided phased-in property tax exemption. The purpose of the HB 488 study is to consider options, if any, the Legislature may adopt to mitigate increases in reappraised values. The subcommittee is operating under a slight handicap because data on new values will not be available until later this year.

Jeff Martin, subcommittee staff, presented a history of cyclical reappraisal in Montana since the Department took over reappraisal under the 1972 Constitution. He also discussed some property tax mitigation strategies that the subcommittee may consider during the interim. The reports are available on the RTIC webpage under the HB 488 subcommittee.

The Department of Revenue discussed the results from the 1997 and 2003 reappraisal cycles and provided an update on the current cycle. The average change in residential property values was 44 percent in 1997 and the average change in 2003 was 20 percent. The disparity in average values for counties was much less in 2003 than in 1997, and the department expects the 2009 disparity to be lower than 2003. Dan Buck, director of the Department of Revenue, told the subcommittee that effective reappraisal mitigation strategies will prevent property taxes from increasing on a statewide basis.

Miffed over TIFs?...On Thursday afternoon, the full committee took up the question of the Department of Revenue's proposed rules related to tax increment finance districts. Lee Heiman, staff attorney, told the committee that the department has rulemaking authority in relation to the property tax operation of tax increment financing, but not in the creation or administration of the local government districts that utilize tax increment financing. Alec Hanson, of the Montana League of Cities and Towns, discussed the a background report on tax increment finance districts. Bruce McCandless, of Billings, and Chris Behan, of Missoula, discussed boundary changes within a TIF district, and Colleen Balzarini, of Great Falls, discussed base year taxable value.

Department of Revenue reports...Dan Bucks, director of the Department of Revenue, reported on the property tax settlement with PPL Montana for tax years

2003-2007. The Montana Supreme Court had recently upheld the department's property valuation of the company for tax years 2000-2002. PPL Montana will pay 94 percent, or \$114 million, of assessed property taxes for the eight-year period. Bucks also discussed tax compliance measures, property reappraisal, the \$400 property tax rebate, and certain provisions of the most recent economic stimulus proposal in Congress.

HJR 61 study of federal income tax conformity...Montana generally conforms its individual income tax and corporation license tax laws to federal income tax provisions. Lee Heiman, staff attorney, told the committee that this type of conformity may be an unconstitutional delegation of legislative authority to the federal government. At the April meeting, the committee will review two bill drafts to revise how Montana conforms with federal tax law. The first would provide for a fixed-date conformity to federal law that could be changed only by positive legislative action. The second would also provide for fixed-date conformity but would conform to federal tax law changes enacted between Montana's legislative sessions.

Another part of the study would look at consolidating and reorganizing certain common elements of Montana's individual income tax and corporation license tax laws. Heiman said that committee staff and the Department of Revenue will work together on this part of the study. He told the committee that the reworking of the tax laws would not involve any policy changes.

Down the road...Representatives from Billings and Missoula talked about meeting the transportation needs of their cities and concerns about working relationships with the Montana Department of Transportation. Ed Ulledalen, Billings council member and deputy mayor expressed concern about making advanced payments of local match for transportation projects in Billings. He also said that some cities are better able than MDT to design and build projects and should be allowed to do so.

Bruce Bender, chief administrative officer, said transportation project delays have a significant effect on Missoula because of rising construction costs.

Jim Lynch, director, MDT, told the committee that MDT began requiring the advance payment of local match in response to a legislative audit.

MDT reports...Jim Lynch, MDT, reported on ethanol production tax credits, the status of construction projects on Highway 2, and an update on highway construction projects from 2008 to 2012.

Committee to meet in April...The Revenue and Transportation Committee will meet April 17 and 18 in Helena. The SJR 31 subcommittee and the HB 488 subcommittee will meet April 17. For more information contact Jeff Martin, committee staff, at (406) 444-3595 or jmartin@mt.gov.

## THE BACK PAGE

### WHAT'S YOUR CLIMATE DOING?

By Joe Kolman  
Legislative Research Analyst

When my dad and I talk on the phone, one of us invariably asks, "What's your weather doing?"

He's in Harlowton and I'm in Bozeman or Helena so his weather is often doing something different than mine—especially since the fresh air is usually blowing hard in Harlo.

Monosyllabic men like us can discuss the weather for hours. But lots of folks are talking about the weather as it relates to climate change. The 2007 Legislature debated a number of climate-related bills. The Environmental Quality Council is studying climate change this interim and may endorse legislation. And it is likely the climate will be much discussed in the 2009 session.

### WHAT IS CLIMATE?

Debates about climate change are often complex. And in the heat of the Legislature, there isn't always time for the basics.

First, it's important to know the difference between climate and weather. The weather is the short term state of the atmosphere. One warm day in February is weather. The climate is the long term average weather--often spanning several decades--of a region that takes into account typical weather patterns, the frequency and intensity of storms, cold spells, and heat waves.

Climate change is a term that includes any significant change in measures of climate.

Climate change may result from:

- natural factors, such as changes in the sun's intensity or slow changes in the earth's orbit around the sun;
- natural processes within the climate system such as changes in ocean circulation; and
- human activities that change the atmosphere's composition, including the burning of fossil fuels, or changes to the land surface such as deforestation, reforestation, urbanization or desertification.<sup>1</sup>

Greenhouse gases are central to the climate change debate. Visible light from the sun passes through the atmosphere

and is absorbed by the Earth's surface--some of that energy is then emitted back to the atmosphere as heat. Greenhouse gases trap that heat, which would otherwise be released into space, raising the temperature of the atmosphere and, subsequently, the Earth's surface. This is called the greenhouse effect. Primary greenhouse gases include:<sup>2</sup>

- Water vapor contributes the most to the greenhouse effect and occurs in the atmosphere as a result of the natural cycle of water.
- Carbon dioxide also cycles naturally between the atmosphere and living organisms. Plants and algae remove CO<sub>2</sub> from the atmosphere via photosynthesis, while all living things release CO<sub>2</sub> via respiration (i.e., breathing). Carbon dioxide also cycles back and forth between water on the Earth's surface (freshwater and the oceans) and the atmosphere. In addition to these natural processes, humans release large quantities of CO<sub>2</sub> to the atmosphere by burning fossil fuels, deforestation, and other industrial processes.
- Methane is a natural byproduct of decomposition, but significant quantities are also produced by agriculture and animal husbandry as well as by fossil fuel production.
- Nitrous oxide is released naturally from terrestrial soils and oceans, but substantial quantities are also generated from the use of nitrogen fertilizers in agriculture and through some industrial processes.
- A number of other natural and man-made gases also contribute to the greenhouse effect, including tropospheric ozone and industrial gases such as halocarbons.
- Aerosols are airborne particles within the atmosphere. Some aerosols, such as sulfate aerosols and black carbon aerosols are also produced by fossil fuel combustion. Sulfate aerosols tend to reflect incoming solar radiation, cooling the Earth's surface. Black carbon aerosols absorb, rather than reflect, solar radiation, which shades the Earth's surface, but warms the atmosphere.

### DON'T WE NEED GREENHOUSE GASSES?

The greenhouse effect is necessary for the planet to be warm enough to be livable. But there are concerns that an increasing accumulation of greenhouse gases are causing an increase in global temperatures.

During the past century, global surface temperatures have increased at a rate near 0.11°F per decade. But this trend

<sup>1</sup> Environmental Protection Agency. [www.epa.gov/climatechange/basicinfo.html](http://www.epa.gov/climatechange/basicinfo.html)

<sup>2</sup> Pew Center on Climate Change. [www.pewclimate.org/global-warming-basics/faq\\_s/glance\\_faq\\_science.cfm](http://www.pewclimate.org/global-warming-basics/faq_s/glance_faq_science.cfm)

has increased to a rate approximately 0.32°F per decade during the past 25 to 30 years. There have been two sustained periods of warming, one beginning around 1910 and ending around 1945, and the most recent beginning about 1976.<sup>3</sup>

Since the beginning of this century, each year has ranked among the 10 warmest years of the observational period ranging from 1850 to the present.<sup>4</sup>

Temperatures have been increasing in Montana, too. The following table shows, for selected cities, the trends in the annual mean temperatures and total annual snowfall over the last half century.

50 Year Trends in Mean Annual Temperature and Total Annual Snowfall, 1951-2004		
City	Annual Mean Temperature (°F)	Total Annual Snowfall (inches)
Great Falls	-0.15	-6.3 ('51-04)
Kalispell	+0.85	-6.9 ('51-98)
Billings	+1.44	-10.7 ('51-04)
Missoula	+1.80	-22.7 ('62-04)
Bozeman	+1.97	-15.9 ('62-04)

Source: The Montana Climate Office at <http://climate.nts.g.umd.edu/>

## WHAT ARE THE CONTROVERSIES ABOUT CLIMATE CHANGE?

Debates about climate change are scientific, economic, political, and rife with complexities. That said, major points of contention include what degree are human-produced greenhouse gases affecting the climate and what are those effects?

A 2001 report prepared by the National Academy of Sciences at the request of President George W. Bush concluded, "Greenhouse gases are accumulating in Earth's atmosphere as a result of human activities, causing surface air temperatures and subsurface ocean temperatures to rise. Temperatures are, in fact, rising. The changes observed over the last several decades are likely mostly due to human activities, but we cannot rule out that some significant part of these changes is also a reflection of natural variability."<sup>5</sup>

<sup>3</sup> National Climatic Data Center, 2006. <http://lwf.ncdc.noaa.gov/oa/climate/research/2006/ann/global.html>

<sup>4</sup> World Meteorological Association, 2006. [http://www.wmo.ch/pages/themes/wmoprod/documents/WMO\\_1016\\_E.pdf](http://www.wmo.ch/pages/themes/wmoprod/documents/WMO_1016_E.pdf)

<sup>5</sup> Climate Change Science: An Analysis of Some Key Questions (2001) [http://books.nap.edu/openbook.php?record\\_id=10139&page=1](http://books.nap.edu/openbook.php?record_id=10139&page=1)

Citing the report, the president called for a reduction in the production of greenhouse gases.<sup>6</sup>

Today, statements about human produced greenhouse gases affecting the climate are even stronger than those issued by the National Academy of Sciences in 2001. This statement on the EPA website is reflective of others:

"Scientists know with virtual certainty that:

- Human activities are changing the composition of Earth's atmosphere. Increasing levels of greenhouse gases like carbon dioxide (CO<sub>2</sub>) in the atmosphere since pre-industrial times are well-documented and understood.
- The atmospheric buildup of CO<sub>2</sub> and other greenhouse gases is largely the result of human activities such as the burning of fossil fuels.
- The major greenhouse gases emitted by human activities remain in the atmosphere for periods ranging from decades to centuries. It is therefore virtually certain that atmospheric concentrations of greenhouse gases will continue to rise over the next few decades.
- Increasing greenhouse gas concentrations tend to warm the planet."

A working group of the Intergovernmental Panel on Climate Change recently concluded, "Most of the observed increase in global average temperatures since the mid-20th century is very likely due to the observed increase in anthropogenic greenhouse gas concentrations."<sup>7</sup>

"Discernible human influences now extend to other aspects of climate, including ocean warming, continental-average temperatures, temperature extremes and wind patterns."<sup>8</sup>

However, conclusions about climate change are not

<sup>6</sup> Presidential statement, 2001. [www.climatevision.gov/statements.html](http://www.climatevision.gov/statements.html)

<sup>7</sup> The World Meteorological Organization and the United Nations Environment Programme established the Intergovernmental Panel on Climate Change (IPCC) in 1988. Its role is to assess on a comprehensive, objective, open and transparent basis the scientific, technical and socio-economic information relevant to understanding the scientific basis of risk of human-induced climate change, its potential impacts and options for adaptation and mitigation. The IPCC does not carry out research nor does it monitor climate related data or other relevant parameters. It bases its assessment mainly on peer reviewed and published scientific/technical literature.

<sup>8</sup> IPCC, 2007: Summary for Policymakers. In: Climate Change 2007: The Physical Science Basis. Contribution of Working Group I to the Fourth Assessment Report of the Intergovernmental Panel on Climate Change.

unanimous.

Richard S. Lindzen, a meteorology professor at the Massachusetts Institute of Technology, was a member of the panel that wrote the 2001 National Academy of Sciences report. At the time, he wrote that the summary passage quoted above was a "zinger" that overshadowed the report's caveats, mainly, according to Lindzen, "Our primary conclusion was that despite some knowledge and agreement, the science is by no means settled."<sup>9</sup>

At a 2005 conference on climate change at Yale University, Lindzen said there is basic agreement on three points:<sup>10</sup>

- The global mean surface temperature is always changing. It has increased and decreased over the last 60 years. Over the last century, it has increased, meaning there has been some global warming.
- Carbon dioxide is a greenhouse gas and its increase should contribute to warming. It is increasing, and a doubling would increase the greenhouse effect (mainly due to water vapor and clouds) by about 2 percent.
- There is good evidence that humans are responsible for the recent increase in CO<sub>2</sub>, though climate itself (as well as other natural phenomena) can also cause changes in CO<sub>2</sub>.

However, Lindzen contends that models used by the IPCC fail to correctly take into account the effect of water vapor and clouds. "Even if we attribute all warming over the past century to man made greenhouse gases (which we have no basis for doing), the observed warming is only about one-third to one-sixth of what models project," Lindzen said.

"At this point, it is doubtful that we are even dealing with a serious problem. If this is correct, then there is no policy addressing this non-problem that would be cost-effective," Lindzen said. "Even if we believe the problem to be serious, we have already reached the levels of climate forcing that have been claimed to be serious."<sup>11</sup>

The validity of the models used in the IPCC working group report cited above also are criticized by the George C. Marshall Institute. "The models have systematic flaws, the

input data is unreliable prior to 1970 at the earliest, and the historical record of climate is incomplete and flawed."<sup>12</sup>

#### WHAT ARE THE EFFECTS?

Possible effects of climate change, according to an IPCC working group, include:<sup>13</sup>

- Less water available in mid and semi-arid low latitudes.
- More species at risk for extinction and increased risks for wildfire.
- A decrease in cereal productivity at low latitudes, an increase in higher latitudes.
- Increased damage from floods and storms.
- A change in disease vectors, an increase in mortality due to heat waves, floods, and droughts, and other health problems.

For North America, the report said:<sup>14</sup>

- Warming in western mountains is projected to cause decreased snowpack, more winter flooding, and reduced summer flows, increased competition for over-allocated water resources.
- Disturbances from pests, diseases, and fire are projected to have increasing impacts on forests, with an extended period of high fire risk and large increases in area burned.
- Moderate climate change in the early decades of the century is projected to increase aggregate yields of rain-fed agriculture by 5 percent to 20 percent, but with important variability among regions. Major challenges are projected for crops that are near the warm end of their suitable range or depend on highly utilized water resources.
- Cities that currently experience heat waves are expected to be further challenged by an increased number, intensity and duration of heat waves during

<sup>9</sup> Wall Street Journal, 2001. <http://eaps.mit.edu/faculty/lindzen/OpEds/LindzenWSJ.pdf>

<sup>10</sup> Global Warming: Looking Beyond Kyoto, Yale, 2005. <http://www.ycsg.yale.edu/climate/forms/LindzenYaleMtg.pdf>

<sup>11</sup> Ibid.

<sup>12</sup> Working Group (WG) I Contribution to the IPCC's Fourth Assessment Report (AR4): A Critique, 2007. [www.marshall.org/pdf/materials/515.pdf](http://www.marshall.org/pdf/materials/515.pdf). The Marshall Institute, established in 1984 as a nonprofit corporation, conducts technical assessments of scientific issues with an impact on public policy. This is intended to be a critical examination of the scientific basis for global climate change policy.

<sup>13</sup> Working Group II Contribution to the Intergovernmental Panel on Climate Change Fourth Assessment Report, 2007. [www.ipcc.ch/SPM13apr07.pdf](http://www.ipcc.ch/SPM13apr07.pdf)

<sup>14</sup> Ibid.

the course of the century, with potential for adverse health impacts. Elderly populations are most at risk.

- Coastal communities and habitats will be increasingly stressed by climate change impacts interacting with development and pollution. Population growth and the rising value of infrastructure in coastal areas increase vulnerability to climate variability and future climate change, with losses projected to increase if the intensity of tropical storms increases. Current adaptation is uneven and readiness for increased exposure is low.

The Marshall Institute criticized the report for its modeling and use of worst-case scenarios that assumed nothing would be done to curb greenhouse gasses.<sup>15</sup>

"This is an unrealistic assumption since a variety of actions are currently being taken to control greenhouse gas emissions, some voluntary, some mandatory, and those in the future will be shaped by new knowledge," the critique said.

#### WHO IS DEALING WITH CLIMATE ISSUES?

Various public and private organizations at the national, regional, state, and local levels are taking on climate change.

The national climate change policy has three main goals:<sup>16</sup>

- slowing the growth of emissions;
- strengthening science, technology, and institutions; and
- enhancing international cooperation.

In 2002, the United States pledged to reduce the greenhouse gas intensity of the American economy by 18 percent over the 10-year period from 2002 to 2012. Voluntary, public-private programs focus on energy efficiency, renewable energy, methane and other non-carbon dioxide gases, agricultural practices and implementation of technologies to achieve greenhouse gas reductions.<sup>17</sup>

Greenhouse gas emissions aren't restricted by the federal government; however, the U.S. Supreme Court ruled that the

Environmental Protection Agency has failed to use its authority to regulate carbon in automobile exhaust as a pollutant. In the absence of federal laws on the subject of greenhouse gas emissions, states are forming individual and regional tracking and reductions programs.

Montana is a member of the Western Regional Climate Action Initiative that also includes Arizona, California, New Mexico, Oregon, Utah, and Washington. The Canadian provinces of British Columbia and Manitoba also joined. States will identify, evaluate, and implement ways to reduce greenhouse gas emissions. The initiative requires an overall regional goal to reduce emissions. A market-based, multisector mechanism must be developed to achieve that reduction. Members also will participate in a greenhouse gas registry.

The Regional Greenhouse Gas Initiative (RGGI) includes Connecticut, Delaware, Maine, Maryland, New Hampshire, New Jersey, New York, and Vermont. Starting in 2009, carbon emissions from power plants in those states will be capped at current levels--about 121 million metric tons annually. The cap remains until 2015 when the states then incrementally reduce emissions by 10 percent by 2019. It establishes the first cap-and-trade program for carbon dioxide. It is the first mandatory cap-and-trade program for emissions in the U.S.<sup>18</sup>

Thirty-one states, including Montana, are part of the Climate Registry, a national initiative to track greenhouse gas emissions. The registry, a nonprofit organization, will be used to track, measure, verify, and publicly report greenhouse gases. The registry will accept data starting in January 2008. State agencies, corporations, and educational institutions will be invited to report emissions under the voluntary program. Some states also have specific sources and facilities that are required to report under regulatory programs. In Montana, facilities are not required to report carbon emissions, but the Montana Climate Change Advisory Committee reached agreement on a recommendation that a mandatory reporting program be designed.

Thirty states, including Montana, have completed or are working on climate action plans.<sup>19</sup> In 2006, the Western Governor's Association stated their support for local, state, regional, and national programs that would "reduce

<sup>15</sup> The Marshall Institute, 2007. Evaluating Working Group (WG) II's Contribution to the IPCC's Fourth Assessment Report (AR4) [www.marshall.org/pdf/materials/526.pdf](http://www.marshall.org/pdf/materials/526.pdf)

<sup>16</sup> [www.epa.gov/climatechange/policy/index.html](http://www.epa.gov/climatechange/policy/index.html)

<sup>17</sup> Ibid.

<sup>18</sup> Model Rule and Amended Memorandum of Understanding, Regional Greenhouse Gas Initiative.

<sup>19</sup> Climate Change: Action by States to Address Greenhouse Gas Emissions, by Jonathan Ramseur, Congressional Research Service, January 2007, page 6.

anthropogenic greenhouse gas emissions in a manner that is consistent with scientific research and will not significantly harm the U.S. economy."<sup>20</sup>

In the private sector, members of the American Petroleum Institute formed a climate challenge program to reduce greenhouse gas emissions. Companies are using cogeneration, also known as combined heat and power technology, to turn waste heat into energy and have been working around the world to reduce natural gas flaring, another source of greenhouse gas emissions. Companies also are researching alternative fuels and other technologies.<sup>21</sup>

#### WHAT ABOUT IN MONTANA?

Gov. Brian Schweitzer in 2005 asked Montana's Department of Environmental Quality to form a Climate Change Advisory Committee to study the impact of climate change in Montana.

The Montana Climate Change Advisory Committee had 18 members representing industry, environment, local and tribal governments, transportation, and agriculture. The DEQ contracted with the Center for Climate Strategies to develop a comprehensive inventory and forecast of greenhouse gas emissions in Montana from 1990 to 2020 as well as to develop policy options for reducing greenhouse emissions.

The Center for Climate Strategies is a nonprofit organization that works with groups like the MCCAC to design and implement policies for climate mitigation. The organization has teamed with 15 other states to develop greenhouse gas

reduction plans.

The Environmental Quality Council decided to spend a large portion of this interim examining and debating the MCCAC recommendations.

The mayors of Billings, Bozeman, and Missoula signed on to the U.S. Mayors Climate Protection Agreement, in which mayors commit to reduce emissions in their cities to 7 percent below 1990 levels by 2012.<sup>22</sup>

The Big Sky Carbon Sequestration Project, led by Montana State University, is one of the U.S. Department of Energy's seven regional partnerships. Researchers are developing a framework to deal with carbon dioxide emissions and are working with stakeholders to create a "vision for a new, sustainable energy future."<sup>23</sup>

The National Carbon Offset Coalition, Inc.<sup>24</sup> is made up of seven Montana nonprofit corporations. It allows landowners, corporations, tribes, and state and local governments to participate in a market-based conservation program. The program is geared at reducing the impacts of greenhouse gases and explores the concept of transferring carbon sequestration units as a new commodity.<sup>25</sup>

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<sup>22</sup> [www.usmayors.org/climateprotection/](http://www.usmayors.org/climateprotection/)

<sup>23</sup> [www.bigskyco2.org](http://www.bigskyco2.org)

<sup>24</sup> [www.ncoc.us](http://www.ncoc.us)

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<sup>20</sup> [www.westgov.org/wga/press/plenary1-pr.htm](http://www.westgov.org/wga/press/plenary1-pr.htm)

<sup>21</sup> [www.api.org/ehs/climate/new/companiesaddress.cfm](http://www.api.org/ehs/climate/new/companiesaddress.cfm)

<sup>25</sup> Sonja Nowakowski, legislative research analyst, contributed information to this section.





# INTERIM CALENDAR

UNLESS OTHERWISE SPECIFIED, ALL ROOM DESIGNATIONS ARE IN THE CAPITOL

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
March 2008						1
2	3	4 Fire Suppression Committee: Contractor subcommittee, Room 303	5	6 LFC: Subcommittee on budget and appropriations, Room 102 Subcommittee on State Fund/ workers' comp, Room 152  Legislative Finance Committee, Rm. 102,	7 Legislative Finance Committee, Room 102, 8 a.m.	8
9	10 Environmental Quality Council, Room 102	11 Environmental Quality Council, Room 102	12 Water Policy Committee, Room 172  Education and Local Government Com.: HJR 22 dental study workgroup, Room 102, 9 a.m.	13 Water Policy Committee, Room 172 Education and Local Government Committee: K-12 Subcommittee, Room 137 PEPB Subcom., 9 a.m., Room 102	14 Education and Local Government Committee, 8:30 a.m., Room 137	15
16	17 Children, Families, Health, and Human Services and SJR 15 study of health care delivery, Room 137	18 Children, Families, Health, and Human Services, Room 137	19 Montana State University State Legislative Day Strand Union Building, MSU Campus, Bozeman, noon to 4 p.m.	20	21	22
23	24	25	26	27 Fire Suppression Committee: Wildland-Urban Interface and Infrastructure subcommittees	28 Fire Suppression Committee, Room 102	29
30	31 Legislative Council, Rules subcommittee					

Sunday	Monday	Tuesday	Wednesday	Thursday	Friday	Saturday
April 2008						
		1 Legislative Council	2	3	4	5
6	7	8	9	10 Law and Justice Committee: Adult Justice working group, 10 a.m., Room 137 Juvenile Justice working group, 10 a.m., Room 102	11 Adult justice working group, Room 137  Juvenile justice working group, Room 102  Law and Justice Committee, 1 p.m.	12
13	14	15	16	17 Revenue and Transportation Committee: SJR 31 subcommittee and HB 488 subcommittee	18 Revenue and Transportation Committee	19
20	21	22	23	24	25	26
27	28 State Administration and Veterans' Affairs Committee  Fire Suppression Committee, Hamilton	29 State Administration and Veterans' Affairs Committee  Fire Suppression Committee, Hamilton	30			

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